

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LARRY T. GARMON and JOHN VERTINO,
Individually and on Behalf of a Class of
Others Similarly Situated,

Plaintiffs,

v.

DECISION AND ORDER
15-CV-431-A

BOARD OF EDUCATION FOR THE
BUFFALO CITY SCHOOL DISTRICT,

Defendant.

This action under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”), was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On November 2, 2017, Magistrate Judge Schroeder filed a Report and Recommendation (Dkt. No. 22) recommending that Defendant’s motion for judgment on the pleadings, or for summary judgment (Dkt. No. 12), be granted, in part. Magistrate Schroeder recommended that Plaintiffs’ original Complaint be dismissed without prejudice to amendment; that Plaintiffs’ uniform-maintenance claims be dismissed, with prejudice; and that the claims of opt-in Plaintiffs April Chapman, Kathryn LaForce, Wilmer Olivencia, Jenny Velez, and Andrea Teresi be dismissed as untimely.

The Court has carefully reviewed the Report and Recommendation, the record in the case, and no objections having been timely filed, it is

ORDERED, pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in

Magistrate Judge Schroeder's Report and Recommendation, Defendant's motion for judgment or summary judgment is granted, consistent with Magistrate Judge Schroeder's Report and Recommendation.

The case is fully recommitted to Magistrate Judge Schroeder for further proceedings. The Clerk shall enter Judgment in favor of the Defendant as against opt-in Plaintiffs April Chapman, Kathryn LaForce, Wilmer Olivencia, Jenny Velez, and Andrea Teresi.

IT IS SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: January 22, 2018